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SENATE

{ REPORT  
109-44 }

### NATIONAL TRAILS SYSTEM ACT AMENDMENT

MARCH 30, 2005.—Ordered to be printed

Filed, under authority of the order of the Senate of MARCH 17, 2005

Mr. DOMENICI, from the Committee on Energy and Natural  
Resources, submitted the following

### R E P O R T

[To accompany S. 54]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 54) to amend the National Trails System Act to require the Secretary of the Interior to update the feasibility and suitability studies of four national historic trails, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. On page 2, strike lines 1 through 23 and insert the following:

“(g) REVISION OF FEASIBILITY AND SUITABILITY STUDIES OF EXISTING NATIONAL HISTORIC TRAILS.—

“(1) DEFINITIONS.—In this subsection:

“(A) ROUTE.—The term ‘route’ includes a trail segment commonly known as a cutoff.

“(B) SHARED ROUTE.—The term ‘shared route’ means a route that was a segment of more than 1 historic trail, including a route shared with an existing national historic trail.

“(2) REQUIREMENTS FOR REVISION.—

“IN GENERAL.—The Secretary shall revise the feasibility and suitability studies for certain national trails for consideration of possible additions to the trails.

“(B) STUDY REQUIREMENTS AND OBJECTIVES.—The study requirements and objectives specified in subsection (b) shall apply to a study required by this subsection.

“(C) COMPLETION AND SUBMISSION OF STUDY.—A study listed in this subsection shall be completed and submitted to Congress not later than 3 complete fiscal years from the date funds are made available for the study.

“(3) OREGON NATIONAL HISTORIC TRAIL.—

2. On page 3, line 23, strike “(3)” and insert “(4)”.

3. On page 4, line 8, strike “(4)” and insert “(5)”.

4. On page 7, line 9, strike “(5)” and insert “(6)”.
5. On page 8, line 14, strike “(6)” and insert “(7)”.

#### PURPOSE OF THE MEASURE

The purpose of S. 54 is to amend the National Trails System Act to require the Secretary of the Interior to update the feasibility and suitability studies of four national historic trails.

#### BACKGROUND AND NEED

The National Trails System Act (16 U.S.C. 1241 et seq.) authorizes the establishment of National Scenic, Historic and Recreation trails. S. 54 would amend that Act to authorize studies of additional routes for four prominent National Historic Trails: the Oregon National Historic Trail, a primary route for emigrants to the West; the Mormon National Historic Trail, which commemorates the 1846–47 journey of Mormon settlers from Illinois to Utah; the California National Historic Trail, which traces access routes to the 1849 California Gold Rush; and the Pony Express National Historic Trail, which commemorates the eighteenth-month running of the Pony Express and its dashing delivery of mail from Missouri to California in ten days.

Congress designated the Oregon and Mormon trails in the late 1970’s and the California and Pony Express trails in the late 1980’s. More recently, dozens of additional routes and cutoffs have been identified which may qualify as integral parts of these trails. Rather than following a single mainline route, the pioneers often followed a system of trails, braided to follow water and grass, avoid Indians, save time, and even access additional sites.

S. 54 is necessary because the National Trails System Act does not provide for additions to trails subsequent to their designation by Congress. The bill would authorize the Secretary of the Interior to study the feasibility and suitability of adding new routes to each of these trails. Any designation of these new routes as components of the National Trails System would require subsequent legislation.

The Oregon, Mormon, California, and Pony Express trails overlap one another in many locations and several of the routes and cutoffs proposed for study in S. 54 are already part of one or another of the designated trails. These shared routes are prominent where the trails depart from various points along the Missouri River, and other shared locations include routes in western Nebraska, Kansas, Colorado, Wyoming, Idaho, Nevada, and California. The study of these additional routes and cutoffs will help assure greater historical accuracy along these routes.

#### LEGISLATIVE HISTORY

S. 54 was introduced by Senator Hatch on January 24, 2005. During the 108th Congress, the Committee considered a similar bill, S. 635. The Subcommittee on National Parks held a hearing on S. 635 on May 6, 2003. S. 635 was ordered reported, with amendments, by a voice vote on June 9, 2003 (S. Rept. 108–64) and passed the Senate by unanimous consent on June 16, 2003. The House of Representatives did not consider the bill prior to the sine die adjournment of the 108th Congress. A companion measure was introduced March 4, 2003 by Representative Bereuter.

Similar legislation, H.R. 37, was sponsored by Representative Be-reuter in the 107th Congress and passed the House on June 6, 2001. Companion legislation, S. 213, was introduced by Senator Hatch and others on January 30, 2001. The Subcommittee on National Parks held a hearing on both bills on March 7, 2002. At its business meeting on July 31, 2002, the Committee on Energy and Natural Resources ordered H.R. 37 to be favorably reported, as amended. H.R. 37 passed the Senate by a voice vote on November 19, 2003, but was not considered by the House prior to the sine die adjournment of the 108th Congress.

At its business meeting on February 16, 2004, the Committee on Energy and Natural Resources ordered S. 54, as amended, favorably reported.

#### COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in an open business session on February 16, 2005, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. 54, if amended as described herein.

#### COMMITTEE AMENDMENTS

During its consideration of S. 54, the Committee adopted several amendments to conform the bill text to the version as reported by the Committee during the 108th Congress. The amendments also make other technical and clarifying corrections.

#### SECTION-BY-SECTION ANALYSIS

Section 1 amends section 5 of the National Trails System Act (16 U.S.C. 1244) by inserting a new subsection (g) authorizing the Secretary of the Interior or the Secretary of Agriculture, as appropriate, to study the referenced routes which are associated with the Oregon, Pony Express, California, and Mormon Pioneer National Historic Trails for possible additions to these trails.

Paragraph (1) of the new subsection defines key terms used in the studies and clarifies that the studies are to be conducted in accordance with the requirements of section 5(b) of the National Trails System Act.

Paragraph (2) identifies ten routes associated with the Oregon National Historic Trail and any other routes the Secretary determines are appropriate for designation as a component of the Oregon National Historic Trail.

Paragraph (3) directs the Secretary to study approximately 20 miles of the southern alternative route of the Pony Express National Historic Trail from Wathena, Kansas to Troy, Kansas. In addition, the Secretary is to consider other routes that might be feasible and suitable for designation as components of the Pony Express National Historic Trail.

Paragraph (4) directs the Secretary to study several routes associated with the California National Historic Trail, including 19 routes in the Missouri Valley, 8 central routes, and 13 western routes.

Paragraph (5) directs the Secretary to study six routes associated with the Mormon Pioneer National Historic Trail depicted on the referenced map.

Paragraph (6) requires the Secretary to study seven routes that are shared by the California and Oregon National Historic Trails. In addition, the Secretary is authorized to study other associated shared routes to determine their suitability and feasibility for designation as part of either trail.

#### COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office.

S. 54—A BILL TO AMEND THE NATIONAL TRAILS SYSTEM ACT TO REQUIRE THE SECRETARY OF THE INTERIOR TO UPDATE THE FEASIBILITY AND SUITABILITY STUDIES OF FOUR NATIONAL HISTORIC TRAILS

S. 54 would direct the Department of the Interior to update the feasibility studies of four national historic trails to include numerous shared routes, cutoff trails, and other trail segments. (The four trails affected are the Oregon, Pony Express, California, and Mormon Pioneer National Historic Trails.) The bill would require the department to report its findings on the potential trail additions within three years of receiving funding for the studies.

Assuming the availability of appropriated funds, CBO estimates that it would cost about \$160,000 over the next three years to conduct all of the required studies of trail segments specified by the bill. The legislation would not affect direct spending or revenues.

S. 54 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Deborah Reis. The estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 54.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 54, as ordered reported.

#### EXECUTIVE COMMUNICATIONS

During the 108th Congress, the Committee considered similar legislation, S. 635.

The views of the Administration on S. 635 were included in testimony received by the Committee at a hearing on the bill on May 6, 2004, as follows:

STATEMENT OF D. THOMAS ROSS, ASSISTANT DIRECTOR,  
RECREATION AND CONSERVATION, NATIONAL PARK SERVICE,  
DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to present the Department of the Interior's views on S. 635, which would amend the National Trails System Act to update the feasibility and suitability studies of the Oregon, California, Pony Express and Mormon Pioneer National Historic Trails (NHT).

S. 635 would update the feasibility and suitability studies and make recommendations through the examination of additional routes and cutoffs not included in the initial studies of all four trails. The Secretary of the Interior would determine if any of these routes and cutoffs are eligible as additions to the four NHTs at the completion of these studies and report back to the Congress.

The Department supports S. 635 with an amendment to the bill included at the end of this testimony. We suggest the bill be amended to make the deadline for completion and submission to the studies to Congress be three years after funds are made available for the studies.

The National Park Service is in various stages of progress on 37 studies previously authorized by Congress. Eight of these studies are being funded from the same appropriation that would be used for these updated trail studies. The Department's priority has been to complete the studies previously authorized by Congress, and to begin work on newly authorized studies as funding becomes available. We therefore suggest that the bill be amended to make the deadline for completion and submission of the studies to Congress be three years after funds are made available.

The feasibility study for the Oregon NHT was completed in 1977, the study for the Mormon Pioneer NHT in 1978, and the one for the California and Pony Express NHTs in 1987. Since those studies have been completed, additional routes and cutoffs were identified that may qualify as segments of these trails. The National Trails Systems Act does not provide the authority to evaluate and add any additional routes and cutoffs without certain legislative amendments.

The Oregon NHT, authorized in 1978, commemorates the "primary route" used by the emigrants beginning in 1841 between Independence, Missouri and Oregon City, Oregon. Traveled by thousands, the trail contained routes and cutoffs used through the years. These secondary routes had substantial emigrant traffic over several decades that demonstrate historical significance and may be worthy of examination in an updated study.

The authorization of the Mormon NHT in 1978 commemorates the journey of the pioneer party in 1846-1847 from Nauvoo, Illinois, to Salt Lake City, Utah. As with the Oregon NHT, emigrant traffic occurred on many additional routes during the Mormon migration westward. As with

the other trails, these routes frequently coincide with one another. Preliminary data indicate historic traffic along these routes.

Authorized in 1992, the California NHT commemorates the gold rush to the Sierra Nevada. Dozens of routes and cutoffs were traveled by thousands of pioneers, but no single route dominated.

The Pony Express NHT was included in the same authorizing legislation as the California NHT. It commemorates the efforts of this nation struggling to establish a system of communication across the Trans-Missouri west. The trail primarily follows routes beginning at St. Joseph, Missouri and ending in San Francisco, California. The firm of Russell, Majors, and Waddell, a western Missouri freighting company, established and operated the Pony Express for one and a half years before it fell on hard times and ceased to exist. A short section of the trail, from the Missouri River into Kansas, may be worthy of study and is included in S. 635.

All four trails overlap one another in many locations and several of the routes and cutoffs proposed for study in S. 635 are already part of designated trails. These shared routes are prominent where the trails depart from various points along the Missouri and Mississippi Rivers, particularly in the Kansas City, St. Joseph, Nebraska City, Council Bluffs and Omaha areas. Several other shared locations include routes in western Nebraska, Kansas, Colorado, Wyoming, Idaho, Nevada and California.

The National Trail System Act requires that studies of lands proposed for trails be made in consultation with federal, state, and local agencies, as well as nonprofit trail organizations. Between 1994 and 1999, the National Park Service—in collaboration with the Bureau of Land Management, USDA Forest Service, trail advocacy groups and others—completed the “Comprehensive Management and Use Plan and Environmental Impact Statement” (1999) for the four trails. This was the initial plan for the recently established California and Pony Express NHTs as well as revised plans for the earlier established Oregon and Mormon Pioneer NHTs. S. 635 would allow for the consideration of these additional alternates and cutoffs by authorizing an update of the original studies done for these four trails to evaluate which are eligible for designation as NHT segments. S. 635 maintains the requirements of the National Trail System Act to work closely with federal agencies, state, local and tribal governments, local landowners and other interested parties. We anticipate the cost of doing these studies to be approximately \$175,000.

The intent of the National Trails System Act is one of respecting private property rights. Given that historic trails cross public and private lands, the development of strong partnerships is critical to administering and managing the historic trails and achieving preservation of trail resources and interpretation of the trail to the public. The

four national trails in this legislation demonstrate existing public and private partnerships.

This concludes my testimony. I would be happy to respond to any questions that you or members of the subcommittee may have.

#### AMENDMENT TO S. 635

S. 635 is amended by page 2, line 24 by striking “the date of enactment of this section” and inserting “funds are made available”.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 54, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

#### Public Law 90–543, 90th Congress

AN ACT To establish a national trails system, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SHORT TITLE

SECTION 1. This Act may be cited as the “National Trails System Act”.

\* \* \* \* \*

SEC. 5. (a) National scenic and national historic trails shall be authorized and designated only by Act of Congress. There are hereby established the following National Scenic and National Historic Trails:

\* \* \* \* \*

(g) *REVISION OF FEASIBILITY AND SUITABILITY STUDIES OF EXISTING NATIONAL HISTORIC TRAILS.—*

(1) *DEFINITIONS.—In this subsection:*

(A) *ROUTE.—The term “route” includes a trail segment common known as a cutoff.*

(B) *SHARED ROUTE.—The term “shared route” means a route that was a segment of more than one historic trail, including a route shared with an existing national historic trail.*

(2) *REQUIREMENTS FOR REVISION.—*

(A) *IN GENERAL.—The Secretary shall revise the feasibility and suitability studies for certain national trails for consideration of possible additions to the trails.*

(B) *STUDY REQUIREMENTS AND OBJECTIVES.—The study requirements and objectives specified in subsection (b) shall apply to a study required by this subsection.*

(C) *COMPLETION AND SUBMISSION OF STUDY.—A study listed in this subsection shall be completed and submitted to the Congress not later than three complete fiscal years from the date funds are made available for the study.*

(3) OREGON NATIONAL HISTORIC TRAIL.—

(A) STUDY REQUIRED.—*The Secretary of the Interior shall undertake a study of the routes of the Oregon Trail listed in subparagraph (B) and generally depicted on the map entitled “Western Emigrant Trails 1830/1870” and dated 1991/1993, and of such other routes of the Oregon Trail that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as components of the Oregon National Historic Trail.*

(B) COVERED ROUTES.—*The routes to be studied under subparagraph (A) shall include the following:*

- (i) Whitman Mission route.*
- (ii) Upper Columbia River.*
- (iii) Cowlitz River route.*
- (iv) Meek cutoff.*
- (v) Free Emigrant Road.*
- (vi) North Alternate Oregon Trail.*
- (vii) Goodale’s cutoff.*
- (viii) North Side alternate route.*
- (ix) Cutoff to Barlow Road.*
- (x) Naches Pass Trail.*

(4) PONY EXPRESS NATIONAL HISTORIC TRAIL.—*The Secretary of the Interior shall undertake a study of the approximately 20-mile southern alternative route of the Pony Express Trail from Wathena, Kansas, to Troy, Kansas, and such other routes of the Pony Express Trail that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as components of the Pony Express National Historic Trail.*

(5) CALIFORNIA NATIONAL HISTORIC TRAIL.—

(A) STUDY REQUIRED.—*The Secretary of the Interior shall undertake a study of the Missouri Valley, central and western routes of the California Trail listed in subparagraph (B) and generally depicted on the map entitled “Western Emigrant Trails 1830/1870” and dated 1991/1993, and of such other shared Missouri Valley, central, and western routes that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as components of the California National Historic Trail.*

(B) COVERED ROUTES.—*The routes to be studied under subparagraph (A) shall include the following:*

- (i) MISSOURI VALLEY ROUTES.—*
  - (I) Blue Mills-Independence Road.*
  - (II) Westport Landing Road.*
  - (III) Westport-Lawrence Road.*
  - (IV) Fort Leavenworth-Blue River route.*
  - (V) Road to Amazonia.*
  - (VI) Union Ferry route.*
  - (VII) Old Wyoming-Nebraska City cutoff.*
  - (VIII) Lower Plattsmouth route.*
  - (IX) Lower Bellevue route.*
  - (X) Woodbury cutoff.*
  - (XI) Blue Ridge cutoff.*

- (XII) *Westport Road.*
- (XIII) *Gum Springs-Fort Leavenworth route.*
- (XIV) *Atchison / Independence Creek routes.*
- (XV) *Fort Leavenworth-Kansas River route.*
- (XVI) *Nebraska City cutoff routes.*
- (XVII) *Minersville-Nebraska City road.*
- (XVIII) *Upper Plattsmouth route.*
- (XIX) *Upper Bellevue route.*

(ii) *CENTRAL ROUTES.—*

- (I) *Cherokee Trail, including splits.*
- (II) *Weber Canyon route of Hastings cutoff.*
- (III) *Bishop Creek cutoff.*
- (IV) *McAuley cutoff.*
- (V) *Diamond Springs cutoff.*
- (VI) *Secret Pass.*
- (VII) *Greenhorn cutoff.*
- (VIII) *Central Overland Trail.*

(iii) *WESTERN ROUTES.—*

- (I) *Bidwell-Bartleson route.*
- (II) *Georgetown / Dagget Pass Trail.*
- (III) *Big Trees Road.*
- (IV) *Grizzly Flat cutoff.*
- (V) *Nevada City Road.*
- (VI) *Yreka Trail.*
- (VII) *Hennes Pass route.*
- (VIII) *Johnson cutoff.*
- (IX) *Luther Pass Trail.*
- (X) *Volcano Road.*
- (XI) *Sacramento-Coloma Wagon Road.*
- (XII) *Burnett cutoff.*
- (XIII) *Placer County Road to Auburn.*

(6) *MORMON PIONEER NATIONAL HISTORIC TRAIL.—*

(A) *STUDY REQUIRED.—The Secretary of the Interior shall undertake a study of the routes of the Mormon Pioneer Trail listed in subparagraph (B) and generally depicted on the map entitled “Western Emigrant Trails 1830/1870” and dated 1991/1993, and of such other routes of the Mormon Pioneer Trail that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as components of the Mormon Pioneer National Historic Trail.*

(B) *COVERED ROUTES.—The routes to be studied under subparagraph (A) shall include the following:*

- (i) *1846 Subsequent routes A and B (Lucas and Clarke Counties, Iowa).*
- (ii) *1856–57 Handcart route (Iowa City to Council Bluffs).*
- (iii) *Keokuk route (Iowa).*
- (iv) *1847 Alternative Elkhorn and Loup River Crossings in Nebraska.*
- (v) *Fort Leavenworth Road; Ox Bow route and alternates in Kansas and Missouri (Oregon and California Trail routes used by Mormon emigrants).*
- (vi) *1850 Golden Pass Road in Utah.*

(7) *SHARED CALIFORNIA AND OREGON TRAIL ROUTES.—*

(A) *STUDY REQUIRED.*—*The Secretary of the Interior shall undertake a study of the shared routes of the California Trail and Oregon Trail listed in subparagraph (B) and generally depicted on the map entitled “Western Emigrant Trails 1830/1870” and dated 1991/1993, and of such other shared routes that the Secretary considers appropriate, to determine the feasibility and suitability of designation of one or more of the routes as shared components of the California National Historic Trail and the Oregon National Historic Trail.*

(B) *COVERED ROUTES.*—*The routes to be studied under subparagraph (A) shall include the following:*

- (i) St. Joe Road.*
- (ii) Council Bluffs Road.*
- (iii) Sublet cutoff.*
- (iv) Applegate route.*
- (v) Old Fort Kearny Road (Oxbow Trail).*
- (vi) Childs cutoff.*
- (vii) Raft River to Applegate.*

\* \* \* \* \*

